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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/092,205	03/07/2002	Kozo Akiyoshi	13925	8620

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EXAMINER

BAYAT, ALI

ART UNIT PAPER NUMBER

2625

DATE MAILED: 03/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/092,205

Applicant(s)

AKIYOSHI ET AL.

Examiner

Ali Bayat

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 March 2002.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☒ Claim(s) 1-23 is/are allowed.
6) ☒ Claim(s) 2-26 and 29-33 is/are rejected.
7) ☒ Claim(s) 27 and 28 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 07 March 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 6/12/02.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☒ Other: See Continuation Sheet.

Continuation of Attachment(s) 6). Other: Examiner's Statement of Reasons for Allowance (Claims 1-23).

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

The claimed 33 invention is directed to non-statutory subject matter. The following A) The following claim format is unacceptable and subject to a 101 rejection:

"A computer program product for performing the steps of ..."

Such a claim is non-statutory because the terminology "computer program product" alone has no set definition.

(B) The following claim formats are acceptable and not subject to a 101 rejection:

"A computer program embodied in a computer readable medium for performing the steps of ..."

"A computer readable medium storing a program for performing the steps of..."

A statutory product with descriptive material must include a positive recitation of the computer readable medium -- MPEP 2106, case law, USPTO policy, all are founded on this.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 24-26 and 30-32 are rejected under 35 U.S.C. 102(e) as being anticipated by Van Der Schaar et al. (US 2002/0037047 A1).

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In regard to claim 24, Van Der Schaar provides for acquiring a data stream that includes a plurality of key frames (Fig.3A note I and P frames, see paragraph 29) and a correspondence data file there between (Fig.3A see B frame between I and P frames, Paragraph 29); generating an intermediate frame between the key frames' from the data stream (Fig.3A see B frame between I and P frames, Paragraph 290; and

Monitoring for an error in the data stream (Paragraph 34 lines 1-2), wherein, when an error is detected, an error avoidance processing is performed at the time of said generating the intermediate frame (Paragraph 34).

With regard to claim 25, Van Der Schaar provides for an image decoding method, wherein when the error is detected in data of a key frame, the error avoidance processing is performed in a manner such that the intermediate frame is generated from data of another key frame which is substituted for data of the error-containing key frame (See paragraph 34).

As to claim 26, Van Der Schaar provides for an image decoding method, wherein when the error is detected in data of a key frame, the error avoidance processing is performed in a manner such that the intermediate frame is generated from data of another key frame and a correspondence data file relating thereto (See paragraph 34).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Van Der Schaar et al. (US 2002/0037047 A1) in view of Kadowaki et al. (JP 2004186858).

In regard to claim 29, Van Der Schaar provide for an error avoidance processing (paragraph 34). Van Der Schaar does not provide for an error avoidance processing is abandoned in the event that it is judged that seriousness of the error is below a predetermined level. Kadowaki provides for an error avoidance process (See Solution lines 9-15, note the comparing the distortion amount with the threshold). The prior art of Van Der Schaar and Kadowaki are combinable because they are from the same field of endeavor (eliminating an error). At time of the invention, it would have been obvious to a person of ordinary skill in the art to incorporate the teaching of Kadowaki with the system and method of Van Der Schaar. Because to allow a distortion amount of an image to be recognized when the image is progressively displayed (See Abstract).

Objected Claims

4. Claims 27-28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Allowable Subject Matter

5. Claims 1-23 are allowed.

The following is an examiner's statement of reasons for allowance: the prior art of Van Der Schaar (US 2002/0037047 A1) provides for "if error occurs in an enhancement layer I- or P- frames, the error will not go beyond the (two) motion-predicted enhancement layer B-frames using these enhancement layer frames as references.

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Then either one of the motion-predicted enhancement layer B-frames can be discarded and frame-repetition applied or error concealment can be applied using the other uncorrupted reference enhancement layer frame”(Paragraph 34). The prior art of Van Der Schaaar failed to teach or suggest for an error detector which receives a data stream that includes KF_i , KF_{i+1} and $C_{i,i+1}$, and detects whether or not there is an error in the data stream; an intermediate image generator which generates $IF_{i,i+1}$ from the data stream; and an error controller which, when an error occurs in the data stream, controls said intermediate image generator in a manner such that an error avoidance processing is performed in said intermediate image generator.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.”

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ali Bayat whose telephone number is 703-306-5915.

The examiner can normally be reached on M-Thur 9:00-7:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bhavesh Mehta can be reached on 703-3085246. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ali Bayat *AB*
Patent Examiner
Group Art Unit 2625
3/6/05

Kanubhai Patel
KANUBHAI PATEL
PRIMARY EXAMINER